

REMARKS

Assignee submits that the present amendment is fully responsive to the Office Action dated July 14, 2011 and, thus, the application is in condition for allowance.

By this reply, claims 1, 37, and 44 are amended. Claims 7-36 were previously withdrawn. Claims 1-6 and 37-50 remain pending. Of these, claims 1, 37 and 44 are independent. An expedited review and allowance of the application is respectfully requested.

In the outstanding Office Action, claims 1-4, 6, and 37-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cruickshank (US 6,888,927) in view of Mobley (US 6,327,342), further in view of Zhang (US 6,993,119), Himmel (US 2003/0134626), Aksu (US 7,174,163), and Khakoo et al. (US 2003/0133543). It is asserted that Cruickshank teaches all of the features of the subject disclosure as recited in the claims but for features allegedly disclosed by Mobley, Zhang, Himmel, Aksu, and Khakoo. It is further asserted that it would have been obvious to one of ordinary skill in the art to combine all of these references. Assignee respectfully traverses.

With respect to independent claims 1 and 37, neither Cruickshank nor Mobley nor Zhang nor Himmel nor Aksu nor Khakoo, alone or in combination, teach or fairly suggest the subject disclosure as recited in the pending claims. For example, no reference of record discloses, among other things, communicating to the caller... one of a Short Message Service (SMS), Enhanced Message Service (EMS), and Multimedia Message Service (MMS) message containing a called party's name and photo. These features are found, for example, in paragraph [0038] of the subject disclosure, as published, and are recited in each of the independent claims, as amended. According to the subject disclosure, when a caller calls a called party, the called

party's information is sent to the caller by SMS, MMS, or EMS. *See* ¶ [0038], Pub. App. Thus, the person making the call receives a name and photo of the person they are calling.

In an attempt to obviate the subject disclosure, as claimed, the Office Action has assembled pieces from 6 various references within the broad spectrum of telecommunication, 3 of which are used solely to show the proffered elements of Assignee's previous response. Assignee respectfully submits that this form of piece-mealing the structural and functional elements of an invention is not how 103 was meant to be used. In the instant response, Assignee has amended the claims to assert the novel elements more clearly.

First, Cruickshank does not disclose every element of the subject disclosure, as claimed. Cruickshank discloses relating information about a caller to a called (but missed) party *after* the caller leaves a message for the called (but missed) party. In fact, in contrast with the subject disclosure, when using Cruickshank's invention, nothing happens if the called party answers the call (See, for example, col. 12, lines 48-52). It is only in the case of a missed call in which a message is left for the called party does Cruickshank's invention operate. Moreover, nowhere does Cruickshank even mention communicating a picture of the called party. Therefore, Cruickshank fails to disclose the subject disclosure.

Second, Mobley cannot cure the deficiencies of Cruickshank. Mobley discloses a backup E911 system that operates if the primary E911 system experiences equipment failure (Mobley, Column 1, Lines 59-64). In no way does any device in Mobley operate to provide a name and photo of the called party back to the caller as recited in the pending claims. Therefore, Mobley fails to cure the deficiencies of Cruickshank.

Third, Zhang cannot cure the deficiencies of Cruickshank and Mobley. Zhang teaches a conventional caller ID system (Zhang, Column 16, Lines 1-4). This also in no way provides a

name and photo back to the caller. Additionally, Zhang teaches away from Cruickshank's invention because Zhang's invention works with a standard (and very well known and conventional) Caller ID in real time while, as discussed above, the device of Cruickshank only responds if there is no answer. Therefore, Zhang fails to cure the deficiencies of Cruickshank and Mobley.

Fourth, Himmel cannot cure the deficiencies of Cruickshank, Mobley, and Zhang. Himmel teaches managing a mobile phone answering mode and outgoing message or other indicator based on a location of the mobile phone. *See* Himmel, abstract. In doing so, the outgoing message provided to the calling party may also be based on the particular location and restrictions imposed by the location of the called party. *See* Himmel, ¶ [0031]. However, Himmel does not disclose sending a name or photo of the called party. Himmel also suffers from a similar deficiency to Cruickshank in that Himmel discloses sending this in lieu of the called party answering the phone. Moreover, the "information" that Himmel sends is conditional and temporary, where as a name and photo are personal. To clarify this in the claims, Assignee has amended the independent claims to simply recite "a called party's name and photo". Therefore, Himmel fails to cure the deficiencies of Cruickshank, Mobley, and Zhang.

Fifth, Aksu cannot cure the deficiencies of the other references with respect to the claims because Aksu also lacks these features. Aksu discloses a picture caller line identification system for use in a mobile network (Aksu, Column 1, Lines 45-49). At most, Aksu discloses sending a message to a called party's handset (Aksu, Column 10, Lines 33-49). The only information sent at all by the called party is an acknowledgement of the receipt of the PCLI information, and this is sent through the EMS to the PCLI manager, not the calling party. Nowhere does Aksu disclose sending a called party's name and photo back to a caller using SMS, EMS, or MMS.

Aksu does not disclose sending any message back to the caller. Thus, the caller is not provided with a name and photo of the called party. Therefore, Aksu fails to cure the deficiencies of Cruickshank, Mobley, Zhang, and Himmel.

Finally, Khakoo cannot cure the deficiencies of the other references. Khakoo discloses delivering messages to a calling party (Khakoo, Paragraph [0006]). Khakoo provides a message document address to the calling party, which includes a pointer or hyperlink to a message document containing a message for the calling party (Khakoo, Paragraph [0006]). This message document may include a name and photograph (Khakoo, Paragraph [0026]). However, this name and photograph is never being sent to the calling party. Only a link to where the name and photograph can be found is sent to the calling party. Moreover, there is absolutely no disclosure of this link being sent as an SMS, MMS, or EMS message. Thus, the calling party is not instantly getting the name and photograph in a message to their device. The calling party must perform more steps to further look up a name and photo of the called party. Therefore, Khakoo cannot cure the deficiencies of Cruickshank, Mobley, Zhang, Himmel, and Aksu. For at least this reason, the rejection should be withdrawn.

In regards to claims 2-4, 6, and 38-42, since these dependent claims depend on independent claims 1 and 37, which stand free of any references of record and should be deemed allowable at least for the reasons stated forth above, these dependent claims then also are allowable by definition. Thus, no references of record render obvious any of these pending claims and the rejection should therefore be withdrawn. Each particular dependent claim includes further explicit limitations that stand free of any references of record on its own. As an example, the limitations recited in claims 6, 43 and 50 require information to be relayed and stored back in the wireless device used by the calling party, a feature not disclosed or fairly

suggested by any of the references of record, even in the inventions described therein that are different than that of the present application. For at least these reasons, the rejection should be withdrawn.

In the outstanding Office Actions, claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Cruickshank in view of Mobley and further in view of Zhang, Himmel, Aksu, Khakoo, and Gerszberg (USPN 6,385,305). It is asserted that the combination of Cruickshank, Mobley, Zhang, Himmel, Aksu, and Khakoo teaches all of the features of the subject disclosure as recited in the claims but for the ability to drag information from a GUI for a contact manager and dropping it into a GUI for a wireless device interface logic. Further, it is alleged that Gerszberg teaches such limitation and, thus, it would have been obvious to combine such teaching into the combination of Cruickshank, Mobley, Zhang, Himmel, Aksu, and Khakoo to render obvious the subject disclosure as recited in the claims. Assignee respectfully traverses.

With respect to independent claim 1, neither Cruickshank, Mobley, Zhang, Himmel, Aksu, Khakoo, nor Gerszberg, nor any other related reference of record, alone or in combination, disclose or fairly suggest the subject disclosure as recited in the pending claims. For example, no reference, alone or in combination, discloses, among other things, communicating to the caller... one of a Short Message Service (SMS), Enhanced Message Service (EMS), and Multimedia Message Service (MMS) message containing a called party's name and photo. These features are found, for example, in paragraph [0038] of the subject disclosure, as published, and are recited in each of the independent claims, as amended. Claim 5 depends from independent claim 1, and necessarily includes each and every element from claim 1. For the foregoing reasons in favor of patentability with respect to independent claims 1 and 37, Cruickshank, Mobley, Zhang, Himmel, Aksu and Khakoo do not disclose these elements.

Furthermore, Gerszberg cannot cure the deficiencies of these references. Gerszberg discloses an answering machine toolkit that allows creative messages to be left thereon (Gerszberg, Column 9, Lines 20-25). It is completely different from the subject disclosure and does not anticipate, obviate or provide any suggestions or motivations that could be used to obviate the subject disclosure as recited in the pending claims. There is nothing in Gerzberg which teaches or fairly describes sending a name and photo to a calling party from a called party. Therefore, Gerszberg fails to cure the deficiencies of Cruickshank, Mobley, Zhang, Himmel, Asku, and Khakoo. The rejection should then be withdrawn and the application allowed to issue.

In the outstanding Office Action, claim 43 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Cruickshank in view of Mobley in view of Zhang, Himmel, Aksu, and Khakoo, and further in view of Official Notice. It is asserted that the combination of Cruickshank, Mobley, Zhang, Himmel, Aksu, and Khakoo teaches all of the limitations of the subject disclosure as recited in the claims but for logic to store the contact information received from an external computing device. Further, it is alleged that such feature is very well known and Official Notice is taken as such, without use of a reference. Assignee respectfully traverses.

The combination of Cruickshank, Mobley, Zhang, Himmel, Aksu, and Khakoo is incapable of obviating the subject disclosure as recited in the pending claims for at least the reasons set forth above with respect to claims 1 and 37. Thus, because such references of record are incapable of obviating such claims, it stands that any Official Notice of any particular additional feature cannot stand as well. Thus, the rejection should be withdrawn and the application allowed to issue.

In the outstanding Office Action, claims 44, 45, and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang (US 6,693,897) in view of Himmel and further in view

of Aksu and Suzuki (JP 405336262A). It is asserted that Huang discloses a device as recited in the pending claims but for disclosing features allegedly disclosed by the other references. It is further asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine all of these references. Assignee respectfully traverses.

With respect to independent claim 44, neither Huang, Himmel, Aksu, nor Suzuki, nor any other related art of record, disclose the subject disclosure as claimed. For example, Huang does not teach, among other things communicating to the caller... one of a Short Message Service (SMS), Enhanced Message Service (EMS), and Multimedia Message Service (MMS) message containing a called party's name and photo. These features are found, for example, in paragraph [0038] of the subject disclosure, as published, and are recited in each of the independent claims, as amended. For the foregoing reasons in favor of patentability with respect to independent claims 1 and 37, Himmel and Aksu do not disclose these elements.

Furthermore, Huang cannot cure the deficiencies of Himmel and Aksu. Huang discloses a system wherein a dial-up internet user can see a caller's name and number while remaining connected to the internet (Huang, Column 2, Lines 60-66). This is because, when using a dial-up connection, the user cannot receive phone calls while using the internet. This is nothing like the subject disclosure. For instance, nowhere does Huang disclose sending the called party's name and photo back to the caller. There is nothing in Huang which teaches or fairly describes sending a called party name and photo to the calling party. Therefore, Huang fails to cure the deficiencies of Himmel and Aksu.

Moreover, Suzuki cannot cure the deficiencies of Huang, Himmel, and Aksu. Suzuki discloses that a name and telephone number of a called subscriber are previously stored in a name/number memory. When the caller later decides to call the called subscriber, the image, the

name, and the telephone number of the called subscriber are called out. This memory is on the calling device and simply recalls a previous called party. Nothing is being sent from the called party to the calling party. There is no SMS, MMS, or EMS being sent to the calling party from the called party. Such features are not found anywhere in Suzuki. Thus, Suzuki fails to cure the deficiencies of Huang, Himmel, and Aksu. For at least this reason, the rejection should be withdrawn.

Dependent claims 45 and 46, which depend on claim 44, also cannot be obviated because they depend on a claim which cannot be fairly anticipated or obviated by Huang, Himmel, Aksu, or Suzuki, as discussed above. These dependent claims add further features that, in combination with the features presented in the independent claim, clearly further distinguish the claims from any teaching or suggestion by the references. For at least these reasons, the rejections should be withdrawn. Furthermore, there is no motivation to combine any of these references outside of Assignee's own disclosure. Even if they were combinable, *arguendo*, the combination would not be able to obviate the subject disclosure for at least the reasons set forth above. Thus, the rejection of the claims should be withdrawn.

In the outstanding Office Actions, claims 47-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Himmel and further in view of Aksu and Suzuki, and further in view of Cruickshank. It is asserted that Huang, Himmel, Aksu, and Suzuki teach all of the elements of claim 44 but do not teach the external computing device receiving photo information for the caller from the wireless device and including the photo information in the new contact record for the caller. Further, it is alleged that Cruickshank teaches such features and, thus, it would have been obvious to combine such teaching with Huang, Himmel, and

Suzuki to render obvious the subject disclosure as recited in the claims. Assignee respectfully traverses.

With respect to independent claim 44, neither Huang, Himmel, Aksu, nor Suzuki, nor any other related art of record, disclose the subject disclosure as claimed. For example, no reference, alone or in combination, teaches, among other things communicating to the caller... one of a Short Message Service (SMS), Enhanced Message Service (EMS), and Multimedia Message Service (MMS) message containing a called party's name and photo. These features are found, for example, in paragraph [0038] of the subject disclosure, as published, and are recited in each of the independent claims, as amended. Claims 47-50 depend from independent claim 44, and necessarily include each and every element from claim 44. For the foregoing reasons in favor of patentability with respect to independent claims 1 and 37, Cruickshank, Himmel and Aksu do not disclose these elements. For the foregoing reasons in favor of patentability with respect to independent claim 44, Huang and Suzuki do not disclose these elements. For at least these reasons, the rejections should be withdrawn.

No extension of time is believed necessary to enter this amendment. If any fees are associated with the entering and consideration of this amendment, please charge such fees to our Deposit Account 50-2882.

Assignee respectfully requests an interview with the Examiner to present more evidence of the unique attributes of the subject disclosure in person. As all of the outstanding rejections have been traversed and all of the claims are believed to be in condition for allowance, Assignee respectfully requests issuance of a Notice of Allowance. If the undersigned attorney can assist in any matters regarding examination of this application, Examiner is encouraged to call at the number listed below.

Respectfully submitted,

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